

IN THE CIRCUIT COURT FOR GARRETT COUNTY, MARYLAND

MICHELLE K. O'BRIEN
197 Oak Street
Oakland, Maryland 21550

Plaintiff

v.

Case No. C-11-CV-21-000039

WALMART INC.
701 South Walton Boulevard
Bentonville, Arkansas 72716

SERVE:

Resident Agent
The Corporation Trust,
Incorporated
2405 York Road, Suite 201
Lutherville, Maryland 21093

Defendant

COMPLAINT

COMES NOW Plaintiff Michelle K. O'Brien, through counsel, John J. Cord and Posner & Cord, LLC, and for causes of action, sues Defendant Walmart Inc., and states as follows:

JURISDICTION AND VENUE

1. Venue is appropriate in Garrett County, Maryland pursuant to MD. CODE ANN., CTS. & JUD. PROC. § 6-201 *et seq.* because the incident occurred in Garrett County.

THE PARTIES

2. Plaintiff Michelle K. O'Brien is a citizen and resident of Oakland County.

3. Defendant Walmart Inc. is a business formed in Arkansas. At all relevant times, Defendant owned and operated a store located at 13164 Garrett Highway in Oakland, Maryland.

FACTUAL BACKGROUND

4. On or about March 1, 2019, Plaintiff Michelle O'Brien was a business invitee at Defendant's store located at 13164 Garrett Highway in Oakland, Maryland.

5. Ms. O'Brien's vehicle was being serviced in the automotive bay. Ms. O'Brien had purchased groceries from the store, and was informed by an employee that she could place them in her car.

6. While walking from her car, a Walmart employee negligently closed the garage bay doors on Ms. O'Brien, hitting her in the head and knocking her to the concrete floor.

7. At all times relevant to this incident, Ms. O'Brien was a business invitee of Defendant. As such, Defendant owed the highest duty to Ms. O'Brien to use reasonable care to inspect and maintain the premises in a safe condition, and to protect Ms. O'Brien from injury caused by an unreasonable risk that she, through the exercise of ordinary care, would have not discovered on her own.

8. At all times relevant, Defendant was aware or should have been aware that Ms. O'Brien was passing underneath the garage doors, and its employees should not have shut those doors. Further, the doors should have had sensors and mechanisms preventing them from closing when people were walking beneath them.

9. Defendant had actual or constructive notice of the unsafe condition of the store.

10. Ms. O'Brien sustained serious and severe injuries solely as a result of the unsafe condition and the negligence of the Walmart employee. Consequently, she has incurred, among other things, damages that include pain, inconvenience, embarrassment, mental anguish, costs of medical treatment and lost wages.

11. Defendant is at fault for Ms. O'Brien's injury and is responsible for her injuries. Ms. O'Brien was acting in a careful and prudent matter without any negligence contributing to her injuries.

**COUNT I
NEGLIGENCE**

12. Plaintiff hereby incorporates by reference and realleges all paragraphs within this Complaint as if fully set forth herein.

13. Defendant had a duty to act reasonably and use due care in the operation of its business. At the date and time of Plaintiff's injury, Defendant, individually and/or through its agents, servants and/or employees, breached that duty and were negligent in the following particulars, among others:

- a. Failing to properly monitor, supervise and maintain the area of the injury so as to furnish to Plaintiff a safe path free from hazards which were recognized, or should have been recognized, by the Defendant as causing or likely to cause serious physical harm to Plaintiff and others;
- b. Failing to maintain the area in a safe condition to ensure that the garage door would not close on Plaintiff;
- c. Failing to properly train and instruct employees in safely and properly closing garage doors;
- d. Failing to properly place corrective devices to prevent the garage door from closing on people, including mechanical doors and motion sensors;
- e. Failing to properly provide for a safe means of ingress and egress between the store and the garage, and failure to provide proper signage which delineates the paths;
- f. Failing to warn Plaintiff of the dangerous, defective and unsafe condition of the garage door;
- g. Failing to maintain the premises owned, operated and maintained by the Defendant in good and safe condition for the Plaintiff and others;
- h. Failing to otherwise comply with the applicable laws and regulations of the State of Maryland and the applicable Federal laws and regulations; and
- i. Otherwise failing to exercise the degree of care required under the circumstances.

14. As a direct result of the negligent conduct, inaction and breach of care by Defendant, individually and through its actual and/or apparent agents, servants, and/or employees, Plaintiff sustained the injuries, losses and damages more fully described above, without any contributing negligence of the Plaintiff.

WHEREFORE, Plaintiff Michelle K. O'Brien demands judgment against Defendant in an amount over \$75,000.00, plus costs, pre-judgment interest and post-judgment interest, to be determined by a jury at trial.

Respectfully submitted,

POSNER & CORD, LLC

/s/ John J. Cord
John J. Cord
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RULE 20-201 CERTIFICATE

I certify that this filing does not contain any restricted information.

/s/ John J. Cord
John J. Cord

REQUEST FOR ISSUANCE OF SUMMONS

This is an initial filing and Plaintiff requests that the Clerk issue a Writ of summons for Defendant.

/s/ John J. Cord
John J. Cord

E-FILED; Garrett Circuit Court
Docket: 5/30/2021 10:19 AM; Submission: 5/30/2021 10:19 AM

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MICHELLE K. O'BRIEN

Plaintiff

v.

WALMART INC.

Defendant

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DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, through counsel John J. Cord and Posner & Cord, LLC; and demands a jury trial on all issues pursuant to Maryland Rule 2-325.

Respectfully submitted,

POSNER & CORD, LLC

/s/ John J. Cord

John J. Cord

CPF No. 0312160144

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Counsel for Plaintiff

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